

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

May 22, 2014

- I. **CALL TO ORDER** – The meeting was called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Carla Blanton; Mike Cravens; David Drake; Mike Owens (left at 2:30 p.m.); Frank Penn; Carolyn Plumlee; Joseph Smith; and William Wilson (arrived at 2:00 p.m.). Absent were Will Berkley, Patrick Brewer, and Karen Mundy.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Jimmy Emmons; Traci Wade; Tom Martin; Cheryl Gallt; and Stephanie Cunningham. Other staff members present were: Tracy Jones, Department of Law; Tim Queary, Urban Forester; Jeff Neal, Division of Traffic Engineering; and Lieutenant Joshua Thiel, Division of Fire & Emergency Services.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Wilson absent) to approve the minutes of the April 24, 2014, meeting.

- III. **POSTPONEMENTS AND WITHDRAWALS** – No such items were presented.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, May 1, 2014, at 8:30 a.m. The meeting was attended by Commission members: Carolyn Plumlee, Joe Smith, Will Berkley, Karen Mundy, Frank Penn and Mike Owens. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Dave Jarman, Denice Bullock and Kelly Hunter, as well as Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, May 1, 2014, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Patrick Brewer, Mike Cravens, David Drake, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

~~Abbreviated public hearings will be held on petitions meeting the following criteria:~~

- The staff has recommended approval of the zone change petition and related plan(s)
 - The petitioner concurs with the staff recommendations
 - Petitioner waives oral presentation, but may submit written evidence for the record
- ~~There are no objections to the petition~~

- B. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS** – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

* - Denotes date by which Commission must either approve or disapprove request.

1. **LITTLE BEGINNERS CHILD DEVELOPMENT CENTER ZONING MAP AMENDMENT & LITTLE BEGINNERS CHILD DEVELOPMENT CENTER (FKA GRACE APOSTOLIC CHURCH) ZONING DEVELOPMENT PLAN**

- a. **MARC 2014-9: LITTLE BEGINNERS CHILD DEVELOPMENT CENTER (6/29/14)*** – petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Planned Neighborhood Residential (R-3) zone, for 0.91 net (1.00 gross) acre, for property located at 474 Stone Road. A conditional use permit is also requested with this zone change.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes to rezone the subject property in order to establish a child care center to care for 85 children on the property. A conditional use permit has also been requested as part of this zone change.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommended: **Approval**, for the following reason:

1. The proposed Planned Neighborhood Residential (R-3) zoning is appropriate and the existing Single Family Residential (R-1B) zoning is inappropriate, for the following reasons:
 - a. The subject property is surrounded by residential zoning; thus, the proposed R-3 zone is compatible with the adjacent zoning. Other zoning categories that permit child care centers, such as a Professional Office (P-1) or Neighborhood Business (B-1) zone, could permit more intense commercial uses at this location.
 - b. The proposed child care center, similar to the church, acts as an appropriate buffer and transitional land use between the residential neighborhoods to the west and north, and the Kentucky Utilities facility to the south.
 - c. The R-1B zoning is inappropriate because the site has never been used for a residential use, and no more than one single family residence could be located on the site without construction of a public street. The site is currently underutilized, and if it remained zoned R-1B that would continue to be the case. Absorbing vacant and underutilized land inside of the Urban Service Area is consistent with the 2013 Comprehensive Plan.
 - d. A child care center is a beneficial and necessary neighborhood service for this portion of the Urban Services Area.
 - e. Rezoning the property to an R-3 zone will allow a greater number and variety of uses on the site that can act as a buffer between the Kentucky Utilities facility to the south and the single-family residential uses to the north and west.
 2. This recommendation is made subject to the approval and certification of **ZDP 2014-39: Little Beginners Child Development (fka Grace Apostolic Church)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. **REQUESTED CONDITIONAL USE**
1. Child Care Center

The Staff Recommends: **Approval**, for the following reasons:

- a. A child care facility at this location, operated under typical days and times, should not adversely affect the subject or surrounding properties. A church has existed at this location for about 50 years, and the similar use of a child care center should not cause a problem if it continues as the principal use of the property. The existing building, the parking, and other facilities can easily accommodate the proposed use.
- b. All necessary public facilities and services are available and adequate for the proposed use, including sanitary sewer service available in this area under the Capacity Assurance Program.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the subject property R-3; otherwise, any Planning Commission action of approval is null and void.
2. Should the property be re-zoned to R-3 by the Council, it shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission.
3. All necessary permits shall be obtained from the Division of Building Inspection prior to any construction; and prior to occupancy of the new facilities a Zoning Compliance Permit and a Certificate of Occupancy shall be obtained from the Division of Planning and the Division of Building Inspection, respectively.
4. The parking lot and driveways shall be paved, with spaces delineated, and landscaped in accordance with Articles 16 and 18 of the Zoning Ordinance, with a minimum of 14 off-street parking spaces.

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5. Signage shall comply with Article 17 of the Zoning Ordinance for this use.
6. That the hours of operation be from 6:00 am to 6:00 pm, Monday through Friday.
7. A fenced and screened play area shall be established on the property that is no less than 2,125 square feet in size.
8. That the child care center be limited to a maximum enrollment of eighty five (85) children, or as allowed by the State based on the square footage of the building. Should the applicant desire to accommodate any more than 85 children in the future, approval will be required by the Board of Adjustment.

- c. ZDP 2014-39: LITTLE BEGINNERS CHILD DEVELOPMENT (FKA: GRACE APOSTOLIC CHURCH) (6/29/14)*
- located at 474 Stone Road. **(Moore Surveying)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property **R-3**; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Waste Management's approval of refuse collection locations.
8. Denote construction access location.
9. Complete exterior dimensions of building on plan.
10. Denote height of building (in feet).
11. Denote floor area of structure(s) in site statistics.
12. Denote proposed and existing easements on plan.
13. Addition of tree protection information.
14. Addition of street frontage in site statistics.
15. Addition of building line setback on plan.
16. Delete note #1.
17. Clarify street cross-section for Stone Road.
18. Denote Planning Commission's approval of the Conditional Use Permit on plan.
19. Resolve extent of improvements for entrance (apron) to the approval of the Division of Traffic Engineering.

Zoning Presentation: Ms. Wade presented the staff report, explaining that the subject property is surrounded on three sides by single family residential zoning, with R-1B to the south, and R-1C to the north and west. Across the railroad to the east are areas of B-4 and I-1 zoning, with a Kentucky Utilities facility to the south. To the north and west are the Open Gates and Stonegate subdivisions.

Ms. Wade displayed several photographs of the subject property, noting that the existing structure, which was constructed in the 1950s, was previously used as a church. There was an approved conditional use permit for the site, which has been vacant for approximately a year. The petitioner has purchased the property and proposes to remodel the existing building for use as a childcare center for up to 85 children. The petitioner is requesting a conditional use permit for a childcare facility, which will require the construction of a play area on the property, as part of this application. The petitioner is also proposing to construct some right-of-way improvements to Stone Road, as such improvements have already been provided to the north and south of the subject property. Ms. Wade noted that there is an existing parking area on the property, with an area of open space to the rear.

Ms. Wade said that the petitioner contends that the existing R-1B zoning is inappropriate for the subject property, and the proposed R-3 zone is appropriate. The petitioner noted, as part of their justification, that the subject property has never been used for a single-family residence; it has always contained a church, which is a semi-public use. The petitioner believes that the property is underutilized, since it is vacant; and they contend that the proposed R-3 zone will allow for a greater number of conditional uses, all of which would provide appropriate buffers between the existing single-family residences to the north, and the Kentucky Utilities facility to the south. The R-3 zone would also continue to allow residential use at this location. Ms. Wade explained that the staff noted in their report that, beyond the adjoining properties, Stone Road has a mixture of land uses, including mini-warehouses, a private school, and small-lot industrial uses near New Circle Road. The staff believes that, although the loss of a church could be detrimental to the neighborhood, the addition of a childcare facility could be an asset by improving the livability of this portion of the county and providing a family-oriented service. The petitioner also contended that the proposed R-3 zone is consistent with the surrounding land uses, and with the 2013 Comprehensive Plan. Ms. Wade stated that, although no residential use is planned for the subject property, the R-3 zone is appropriate because it is compatible with the surrounding zoning. The staff believes that a P-1 or B-1 zone would be more intense than would be desirable at this location, given its proximity to single-family residences. She said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

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Commission Question: Mr. Penn asked how the Kentucky Utilities property was zoned. Ms. Wade answered that it was zoned R-1B, and noted that utilities are not required to adhere to local zoning regulations.

Development Plan Presentation: Ms. Gallt presented the staff recommendation for the corollary zoning development plan, referring to a rendered copy of the plan. She stated that the existing building is north of the Kentucky Utilities site, with existing off-street parking located in the rear.

Ms. Gallt stated that the Subdivision Committee reviewed the plan, and recommended 19 conditions for its approval, as listed on the agenda. Conditions #8 through #15 refer to small corrections needed to the plan; #16 refers to a note that does not need to be included on the plan, since it was filed as a Final Development Plan; #17 refers to a street cross-section that the staff believes was mislabeled; and condition #19 refers to improvements to the street and driveway apron. Ms. Gallt said that there was some discussion at the Subdivision Committee meeting about needed improvements to Stone Road, including the need to connect the existing sidewalk system. There was also discussion about the driveway apron, which is only 22' wide. The Division of Traffic Engineering would prefer for the driveway apron to be widened, in order to provide a sufficient turning radius. The staff believes that it would be appropriate to add a note to the plan to resolve that issue prior to issuance of a Certificate of Occupancy for the new childcare facility.

Commission Question: Ms. Plumlee asked if the issue of Capacity Assurance for the property should be addressed at this time. Mr. Sallee answered that the staff had checked the sewer capacity bank for the area, and learned that it is one of the banks that currently has a positive balance. He noted that there will probably be an increase in flow as part of the conversion of the property from a church to a childcare center, but the bank was not close to its base number.

Mr. Owens asked if the cross-section as depicted on the plan includes a sidewalk. Ms. Gallt responded that the street cross-section as depicted does include a sidewalk. The staff would like for the existing road improvements on either side of the property to be extended along its frontage as well.

Conditional Use Presentation: Mr. Emmons presented the staff report on conditional use, reiterating that the petitioner is requesting a conditional use permit in order to operate a childcare center in the existing building on the subject property. He said that, until approximately a year ago, a church had operated on the property since 1965. The last time a church was approved for this address by the Board of Adjustment (BOA) was in 1980, when the addition to the rear of the structure was constructed.

Mr. Emmons stated that the existing building is approximately 4,000 square feet in size. The petitioner is proposing to construct a 2,000 square-foot outdoor play area, to be located to the north side of the building. The childcare center is proposed for 85 children, a number that is limited by State regulations regarding the interior space of the building, as well as the size of the outdoor play area, which is governed by the Zoning Ordinance. Mr. Emmons noted that, when the staff report was written, the petitioner had not provided any information about the proposed hours of operation for the childcare facility. The staff assumed that the facility would have typical Monday through Friday, 6:00 a.m. to 6:00 p.m. hours, so they made their recommendation of approval subject to a condition outlining those hours. The staff has since conferred with the petitioner, who indicated that they are in agreement with that condition, since those are their proposed hours of operation. Mr. Emmons stated that the staff is recommending approval, for the reasons as listed on the agenda and in the staff report, subject to the eight conditions as listed.

Petitioner Presentation: Nathan Billings, attorney, was present representing the petitioner, Simon Said, who was also present. He stated that the petitioner was proposing an alternative to the redevelopment of the property for residential use, and noted he is in agreement with the staff recommendation, with the exception of the infrastructure improvements along Stone Road. He explained that the petitioner's surveyor passed away just prior to the Subdivision and Zoning Committee meetings three weeks earlier. Mr. Billings was not part of the surveyor's discussions with the Division of Traffic Engineering staff with regard to the improvements, but the petitioner would like to avoid the added expense of constructing those improvements if at all possible. Mr. Billings said that the petitioner would comply, however, if the Planning Commission should choose to require the improvements.

Commission Questions: Mr. Penn asked if there would be any security issues associated with the vacant portion to the rear of the subject property, given its proposed use as a childcare center. Mr. Billings answered that there was a 6' fence in place on that portion of the property, up to the rear of the parking area. Mr. Penn asked how the petitioner proposed to use that vacant portion of the property in the future. Mr. Said answered that the rear portion of the property could be fenced to provide an additional play area. Mr. Billings added that there were no plans to subdivide the property or further develop the rear portion.

Mr. Owens asked if the petitioner would be willing to construct sidewalks and improve the driveway apron according to the staff's recommendations. Mr. Billings answered that the petitioner would like to avoid the additional cost

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of constructing those improvements; however, since sidewalks exist on both sides of the subject property, the petitioner would be agreeable to constructing the improvements.

Staff Rebuttal: Ms. Wade clarified that, in the justification for the proposed zone change, the petitioner indicated that they were willing to construct the infrastructure improvements. She added that, on the submitted development plan, the play area is proposed to the north of the building, rather than to the rear of the parking lot. If the petitioner intends to change the location of the play area, the development plan will need to be modified to reflect those changes.

Citizen Comment: There were no other citizens present wishing to comment on this zone change.

Zoning Action: A motion was made by Ms. Blanton, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Wilson absent) to approve MARC 2014-9, for the reasons provided by staff.

Conditional Use Action: A motion was made by Ms. Blanton, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Wilson absent) to approve the requested conditional use, for the reasons provided by staff, subject to the eight conditions as recommended by staff.

Development Plan Action: A motion was made by Ms. Blanton, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Wilson absent) to approve ZDP 2014-39, subject to the 19 conditions as recommended by staff.

2. RML CONSTRUCTION, LLP, ZONING MAP AMENDMENT & CADENTOWN SUBDIVISION, LOT 10 (BRIGHTON 3050) ZONING DEVELOPMENT PLAN

- a. MARV 2014-10: RML CONSTRUCTION, LLP (6/29/14)* – petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 0.92 net (0.92 gross) acre; and a Neighborhood Business (B-1) zone, for 1.01 net (1.22 gross) acres, for property located 2985 Liberty Road. Landscape variances are also requested with this zone change.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes a High Density Apartment (R-4) zone for about half of the subject property to allow for construction of a 24-unit apartment building, which is planned to be incorporated into the "Brighton 3050" (formerly "The Summit") apartment complex. The petitioner proposes a Neighborhood Business (B-1) zone for the remainder of the property for a mixed-use building with 12,500 square feet of retail space on the first floor, and 16 residential units on the second and third stories of the building, with associated off-street parking. Overall, the site is planned to have 40 dwelling units.

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The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reasons:

1. The requested High Density Apartment (R-4) zone and Neighborhood Business (B-1) zone are appropriate and the existing Single Family Residential (R-1D) zone is inappropriate, for the following reasons:
 - a. Single family residential development is possible at this location, although the surrounding uses suggest that a more intense use of the property is more appropriate. The closest single family residence is over 400 feet away and is located along Cadentown Road.
 - b. The proposed rezoning of the subject property will allow uses in keeping with the existing character of the area. This portion of the Urban Service Area has developed with a combination of neighborhood business and office uses fronting along Man o' War Boulevard, with residential uses located to the rear of the business uses or along Liberty Road.
 - c. The petitioner's proposed rezoning is generally in keeping with the established development pattern of the immediate area, because the planned neighborhood business zoning will extend to generally the same boundary as that for the CVS Pharmacy located directly across Liberty Road.
2. This recommendation is made subject to the approval and certification of ZDP 2014-40: Cadentown Subdivision, Lot 10 (Brighton 3050), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

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b. REQUESTED VARIANCE

1. Eliminate the B-1 to R-4 zone-to-zone screening and vehicular use area screening requirements internal to the site on property located at 2985 Liberty Road.

The Staff Recommends: **Approval of the requested landscape variances**, for the following reasons:

- a. Granting the requested landscape variances will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public. The variances are requested because providing the required landscaping between the B-1 and R-4 zones would be contrary to the applicant's intent to integrate the mixture of commercial and residential uses.
- b. Granting the requested landscape variances will not result in an unreasonable circumvention of the Zoning Ordinance because zone-to-zone screening is designed to "require buffering between incompatible land uses," and the proposed mixture of land uses will be compatible (rather than incompatible) with each other. Landscaping will be provided by the developer throughout the property that will accomplish the purpose of the general provisions of Article 18 without impairing the mixed-use development concept associated with this proposal.
- c. The special circumstance that applies to this property that does not generally apply to land in the general vicinity is the intent to develop a small mixed-use development that will be integrated into both the existing apartment complex and the existing Brighton Place shopping center.
- d. Strict application of the requirements of the Zoning Ordinance would deprive the applicant of a reasonable use of the property and would create an unnecessary hardship because the internal screening of the uses would be contrary to the concept of an integrated mixed-use development.
- e. Although the circumstances surrounding the requested variances are associated with the proposed zone change, the variances are requested in an effort to accomplish an efficient design and place the landscaping in more appropriate locations on the property.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission; or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. Prior to obtaining an Occupancy Permit, the applicant shall obtain a Zoning Compliance Permit from the Division of Planning.

c. ZDP 2014-40: CADENTOWN SUBDIVISION, LOT 10 (BRIGHTON 3050) (6/29/14)* - located at 2985 Liberty Road.
(EA Partners)

The Subdivision Committee Recommended: **Postponement**. There are some questions regarding the compliance with the R-4 lot, yard and height requirements, and the B-1 residential open space requirements.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-4/B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Addition of street cross-sections.
7. Denote all proposed and existing easements.
8. Denote final record plat information on plan.
9. Denote written scale on plan.
10. Discuss zone-to-zone screening (residential & business zones).
11. Discuss drive-through lane proposed in the existing right-of-way.
12. Discuss conceptual stormwater detention and/or other planned drainage controls.
13. Discuss R-4 open space requirements.
14. Discuss R-4 lot, yard and height requirements for new building.
15. Discuss B-1 residential open space requirements for new dwelling units.
16. Discuss off-site parking improvements and dumpster location, as well as the timing for amending the existing final development plan for property to the south.
17. Discuss access to adjoining property.

Zoning Presentation: Ms. Wade presented the staff report on this requested zone change, noting that the subject property is nearly two acres in size, and is proposed to be split-zoned. The petitioner is proposing to rezone the

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northern 0.92 of an acre to the R-4 zone, and the southernmost 1.01 acres to the B-1 zone. The B-1 portion of the property would have frontage on Liberty Road, as well as an area that was formerly part of the right-of-way of Bryant Road. The R-4 portion, however, is not proposed to have frontage on either of those roadways, but will be accessed via another adjacent parcel.

Ms. Wade said that the immediate vicinity of the subject property was formerly a rural crossroads area, where Bryant Road, Todds Road, and Liberty Road met in two (offset) intersections. The 2008 widening of Liberty Road, and its realignment, created the frontage for the subject property. That widening project also created Cadentown Road, to the east, and required the re-naming of a portion of Todds Road to Old Todds Road. In the vicinity of the subject property are R-3 zoning to the north and east; and single-family residential (R-1D) zoning to the west, including a small remnant parcel along Liberty Road. The Brighton Place Shoppes and Todds Center to the south and south-east, which are both mostly zoned B-1, with a small portion of B-3 zoning for a car wash. The Cadentown Historic District (H-1 zone) is located further to the west of the subject property, across Liberty Road and Cadentown Road.

Note: Mr. Wilson arrived at this time.

Ms. Wade stated that the petitioner is proposing this combination of R-4 and B-1 zoning in order to develop an apartment building, which will be complementary to the adjacent existing Brighton 3050 multi-family development. The petitioner is proposing to construct 24 dwelling units on the R-4 portion of the property, for a residential density of 26.09 units per acre. The B-1 portion of the property is proposed for the development of a mixed-use building with approximately 12,000 square feet of typical B-1 uses on the first floor, and 16 dwelling units on the second and third floors.

Referring to an aerial photograph of the subject property and surrounding area, Ms. Wade noted the existing multi-family development; a townhouse development to the north; a CVS pharmacy, across Liberty Road; and a gas station and the Brighton Place Shoppes development adjacent to the subject property. She displayed several street-level photographs, noting: the existing treeline along the eastern boundary of the property; the access points to the gas station and Brighton Place Shoppes; the existing residence on the subject property, which has been vacant for some time; the Todds Road Shopping Center; and the location where the subject property's frontage ends along Liberty Road.

Ms. Wade said that the petitioner contends that the existing R-1D zone is inappropriate at this location, and the R-4 and B-1 zones are appropriate. The petitioner also contends that this proposed rezoning is supported by the Goals & Objectives of the 2013 Comprehensive Plan, particularly with regard to infill and development of underutilized urban land in order to safeguard the community's rural land. The petitioner also believes that the proposed development would be compatible with and sensitive to the character of the existing neighborhood.

Ms. Wade stated that, although single-family residential development is possible on the subject property, the staff believes that a more intense use would be appropriate here, given the adjacent multi-family and commercial developments. The proposed rezoning will allow for development that is similar to the existing character of the area, with commercial uses fronting on the portion of Liberty Road nearest to Man O' War Boulevard, and a transition to residential character further along Liberty Road. The proposed business zoning on the subject property extends back from Liberty Road approximately the same distance as that of the CVS pharmacy, which is an existing B-1 use directly across from the subject property. Ms. Wade said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

Commission Questions: Mr. Penn asked how the small, triangle-shaped remnant parcel is zoned. Ms. Wade answered that it is also zoned R-1D. She added that the construction of Liberty Road caused it to be split from the rest of that property across Liberty Road. That parcel has access to Cadentown Road. Mr. Penn asked how large the remnant triangle-shaped parcel is. Ms. Wade responded that it is approximately 0.3 acre in size.

Development Plan Presentation: Mr. Martin presented the staff report on the corollary preliminary development plan, noting that the following revised conditions for approval had been distributed to the Commission members prior to the start of the hearing:

1. Provided the Urban County Council rezones the property R-4 & B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Addition of street cross-sections.
- ~~7. Denote all proposed and existing easements.~~
- ~~7.-8. Denote final record plat information on plan.~~

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9. ~~Denote written scale on plan.~~
8. ~~10. Discuss Provided the Planning Commission grants the requested variance to the zone-to-zone screening (residential & business zones).~~
11. ~~Discuss drive-through lane proposed in the existing right-of-way.~~
12. ~~Discuss conceptual stormwater detention and/or other planned drainage controls.~~
13. ~~Discuss R-4 open space requirements.~~
9. 14. ~~Discuss R-4 lot, yard and Denote the height requirements for new of the buildings in feet and correct lot coverage statistics.~~
10. 15. ~~Discuss B-1 residential Denote that useable open space locations requirements for new dwelling units shall be resolved at the time of Final Development Plan.~~
11. 16. ~~Discuss Denote the timing of the off-site parking improvements and dumpster location, as well as the timing for amending the existing final development plan for property to the south.~~
12. 17. ~~Discuss access to Denote the timing of the amendment to the existing Final Development Plan for the adjoining property.~~

Referring to the rendered development plan, he noted the location of the proposed B-1 and R-4 parcels. The petitioner is proposing to construct a 12,000 square-foot building on the B-1 parcel, with 16 two-bedroom residential units to be located on the second and third floors. The residential building proposed for the R-4 parcel would be three stories in height, with 24 two-bedroom dwelling units. Total lot coverage for the site is proposed to be 10,995 square feet in the R-4 zone, which is slightly less than 2,000 square feet under the allowable floor area ratio for that zone. The petitioner is proposing to provide access to the parking area via Old Todds Road, as well as via an access road to the existing Brighton 3050 complex. Parking is proposed to be shared between the B-1 and the residential buildings.

Mr. Martin said that condition #9 refers to some discrepancies in the building height and lot coverage statistics that were included on the plan. He added that it is important to document the building height correctly in order to ensure that the residential building meets the height-to-yard requirement. Condition #10 refers to a discussion about the petitioner's ability to meet the open space requirement on the B-1 property, which is necessary due to the proposed residential units there. Mr. Martin stated that the plan meets "the number" required for the open space, but the staff is concerned that the open space provided may not be usable, and has a concern about what constitutes usable open space in the proposed development. He said that this issue can be resolved at the Final Development Plan stage; but the staff believes that it is important, because there could be some conflicts inherent in the development of residential units in a building that also contains commercial uses. The plan depicts 90 parking spaces, even though only 54 are required; and the staff believes that some open space could possibly be gained through a reduction in the number of spaces, which can be determined on the Final Development Plan. The R-4 area requires 43 parking spaces, and the current plan proposes 47.

Mr. Martin noted that the original plan for the property included a proposed drive-through lane for the commercial uses, which caused considerable concern for the staff and the Division of Traffic Engineering, due to the lack of access controls in that area. The petitioner has since removed the drive-through facility from the plan.

With regard to condition #11, Mr. Martin said that the petitioner needs to document the offsite parking improvements and dumpster location on the adjacent property, and the timing of the amendment to the existing Final Development Plan for that property. He said that the Subdivision Committee recommended postponement of this plan; the staff is recommending approval, subject to the conditions as listed previously.

Commission Question: Ms. Plumlee asked if an additional access would be provided to the property, so that drivers will have an alternative to using the busy intersection at Liberty Road. Mr. Martin answered that the proposed development will connect to an existing access point within the adjoining development, which connects to a signalized of Man O' War Boulevard and Helmsdale Place.

Mr. Owens asked why the petitioner is proposing so much excess parking. Mr. Martin answered that the petitioner would need to provide an answer to that question. Mr. Owens said that the Commission typically avoided recommending parking spaces in locations that would require drivers to back out into traffic.

Variance Presentation: Mr. Emmons presented the staff's variance report, explaining that the petitioner requested variances to the zone-to-zone screening required between the B-1 and R-4 zones, and to the interior landscaping requirement for the parking lot.

Mr. Emmons stated that the petitioner is requesting a variance to the zone-to-zone screening requirement because they contend that the purpose of such screening is to separate incompatible uses, but they intend to fully integrate the commercial uses in the B-1 building into their residential complex. The staff is recommending approval of the requested landscape variances, as did the Zoning Committee. Mr. Emmons said that, at the time of the Zoning Committee meeting, the staff had not had the opportunity to present this request to the Landscape Review

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Committee. That committee met two days prior to this meeting, and the staff prepared a supplemental staff report to address the discussion that took place at that meeting.

Mr. Emmons said that the Landscape Review Committee members agreed with the staff and the Zoning Committee in their approval recommendation for the requested variances. However, there was one clarification that was made during the committee meeting, based on the petitioner's presentation of the exhibit also displayed for the Commission's review. The Committee members were concerned that, in the staff report, it appeared that the staff had combined the two requested variances into one recommendation, and they were unsure if that recommendation addressed the perimeter landscape screening variance requested. Mr. Emmons stated that it was the staff's intent to recommend approval of that request as well, which was reflected in the supplemental staff report. The staff is now recommending approval, with that clarification, which requires no changes to the reasons or conditions recommended by staff for approval.

Petitioner Representation: Rena Wiseman, attorney, was present representing the petitioner. She stated that the petitioner owns the Brighton 3050 (formerly the Summit) apartment development. The petitioner purchased the subject property specifically so that the proposed residential and commercial buildings could be incorporated into the Brighton 3050 development, with comparable architecture and access to amenities for all the residents.

Ms. Wiseman stated that the development plan depicts some extra items because it also refers to the adjoining property, and she added that the petitioner is aware that the approved plan for that property will need to be amended, as well. With regard to the comments about the number of additional parking spaces on the property, she said that it was the petitioner's experience in operating apartment developments that the residents tend to need more parking spaces than the number required. In addition, the petitioner does not want to create parking conflicts between the residents of the residential development and the users of the commercial area. Ms. Wiseman stated that the petitioner did not request a mixed-use zone because the subject property did not meet the locational requirements. She said that the petitioner is in agreement with the staff's recommendations, including the conditions for approval of the development plan and variances, and she requested approval.

Citizen Comments: Although a citizen was present for this hearing, he chose not to speak.

Zoning Action: A motion was made by Mr. Drake, seconded by Mr. Cravens, and carried 8-0 (Berkley, Brewer, and Mundy absent) to approve MARV 2014-10, for the reasons provided by staff.

Variance Action: A motion was made by Mr. Drake, seconded by Mr. Cravens, and carried 8-0 (Berkley, Brewer, and Mundy absent) to approve the requested variances, for the reasons provided by staff, and subject to the conditions as recommended by staff.

Development Plan Action: A motion was made by Mr. Drake, seconded by Mr. Cravens, and carried 8-0 (Berkley, Brewer, and Mundy absent) to approve ZDP 2014-40, subject to the 12 conditions as listed in the revised staff recommendation.

VI. COMMISSION ITEMS

- A. **PFR 2014-1: LFUCG SENIOR CITIZENS CENTER** – a Public Facility Review for a new Senior Citizens Center at 195 Life Lane (aka a portion of 212 St. Ann Drive).

SUMMARY FINDINGS: There are no Goals or Objectives of the Comprehensive Plan that are in opposition to the use of a portion of Idle Hour Park as the new Senior Citizens Center. There is no longer a Land Use Element of the Plan; however, the previous Land Use Element recommended Public Recreation for the property, based on the fact that it has been owned and operated by the Urban County Government for several years as a public park. Several Goals and Objectives, as well as the text of the Plan, support the project. In particular, there is a recommendation in the Comprehensive Plan to customize parks in order to "respond to adapting trends, demographics and flexible uses." This recommendation was based on the results of a 2008 survey and a recommendation in the 2009 *Parks and Recreation Master Plan*, which recommend, respectively, that parks be considered for additional activities and facilities, such as senior centers; and that the Division of Parks and Recreation "create and identify opportunities for joint use facilities and for more flexibility to use parks in multiple ways." The purpose of the new Senior Citizens Center is to accommodate more attendees and better programming opportunities, as the existing facility is no longer adequate to serve its participants. The reason for choosing Idle Hour Park is to provide a fairly centralized, easily accessible facility that has existing amenities and that will accommodate a larger building, sufficient parking and associated activities, all of which is endorsed by the Comprehensive Plan, either directly or indirectly.

RECOMMENDATION:

1. That the parking area be screened in a manner comparable to what is depicted on the submitted site plan.

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Staff Presentation: Ms. Rackers presented the staff report on this Public Facility Review request, explaining that the Lexington-Fayette Urban County Government Department of Social Services is proposing to construct a new senior citizens center in Idle Hour Park. Displaying a photograph of the subject property, she stated that 4.46 acres of the park, which are currently zoned A-U, are proposed to be used for the new center.

Ms. Rackers stated that the senior citizens center is proposed to be between 35,000 and 36,000 square feet in size, with 136 parking spaces. Referring to the site plan for the property, she noted the location of Life Lane, which extends from Coburn Boulevard to New Circle Road behind the existing Southland Christian Church and Home Depot buildings. A drop-off area and outdoor spaces are also proposed for the center, with parking for services and employees to the rear of the new structure.

Ms. Rackers said that the 2013 Comprehensive Plan does not include a land use map, but the 2007 Plan's land use map recommended Public Recreation use for the subject property, based on its ownership and operation by LFUCG as a public park. The staff believes that Public Recreation use is still recommended for the property, since its use and ownership have not changed. Based on a 2008 survey regarding park usage and the 2009 Parks and Recreation Master Plan, a recommendation was made that more opportunities should be created for flexibility of uses within the existing parks, to include senior centers. That Plan also noted that Idle Hour Park would be an ideal location for a senior center, as it would provide compatible uses. Ms. Rackers stated that the Themes, Goals and Objectives, and text of the 2013 Comprehensive Plan fully support this request.

Ms. Rackers explained that, several years ago, the existing senior citizens center on Alumni Drive was determined to be inadequate to serve the needs of the citizens of Lexington-Fayette County. That existing building is approximately 17,000 square feet in size, and it serves about 1,000 people each year, with an average of 125 per day. A plan to have one main senior citizens center with several satellites was originally discussed, but the center in Idle Hour Park is the only one currently being proposed, but options have been left open to construct satellite centers at some point in the future. As part of the site selection process, the CAO and LFUCG Commissioner of Social Services visited 16 of 25 properties that were under consideration, some of which were privately owned, as well as several YMCA properties. The list was narrowed from 25 sites to five, which were then presented to the Urban County Council in a work session in August of 2013. The criteria on which the site selection was based were: 1) level of traffic and general traffic patterns in the area; 2) crime statistics; 3) the capability of the property to support the building and parking; and 4) ease of access for participants. There was initially some concern about the possibility of constructing the senior center at the Idle Hour Park site, since it has long been used as a location for youth football practice, but it was determined that the practice area could be relocated to another site within the park. Ms. Rackers stated that the Urban County Council voted unanimously to select the Idle Hour Park site as the location for the future senior citizens center.

Ms. Rackers said that the 2013 Comprehensive Plan includes census projection data that indicates that, by 2035, there will be 54,000 residents in Lexington-Fayette County who are between the ages of 65 and 84. Since the senior citizens center serves residents over age 60, it is estimated that 61,000 will be able to use the new center. The new center will have administrative, activity, and flexible use spaces, to allow for additional programming and a greater number of participants. The time-frame for construction is 14-16 months. Ms. Rackers said that the existing center offers classes, exercise groups, speakers, general recreational space, a dining room, a warming kitchen, television lounge, resource library, a health clinic, and Social Services case management and referral. All of those programs are proposed to be maintained and expanded at the new center, in addition to a soundproof music room to provide participants with the opportunity to practice musical instruments. Bluegrass Community Action Partnership will provide daily lunches at the facility, and other community services will be located there as well. The current hours of operation are Monday through Friday, from 8:00 am to 5:00 pm, but those hours will likely be extended to 8:00 pm following the opening of the new center.

Ms. Rackers stated that there were several reasons for the selection of Idle Hour Park as a location for the new center, but the primary reason was the reduced cost of building on land that was already owned by LFUCG. The park was also chosen for its existing amenities; accessibility; central location; proximity to both New Circle Road and residential neighborhoods; and the vacant area in that park that could be used for a walking trail.

Ms. Rackers said that the Comprehensive Plan addresses the need to provide community facilities and make them available to all citizens. It encourages accessibility in all situations, including transportation. Many senior citizens do not drive, and are dependent on mass transit, so it was important that that mode of transportation be available to the users of the new center. LexTran has agreed to provide an outbound and inbound stop directly in front of the subject property, and to reroute an existing line that currently runs through that portion of the county.

Ms. Rackers read the following from the Comprehensive Plan, which references Destination 2040, a planning effort that was undertaken during the Newberry administration:

"The Urban County Government should strive to meet local standards to accomplish the community's vision."

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She said that the primary goal of that program was to establish a means for Lexington-Fayette County to grow, while still protecting all of its qualities that are valuable to residents. Human needs, physical growth, economic expansion, and cultural creativity were the four "aspects of life" that provided the framework for the program. The staff believes that the "human needs" aspect is applicable to the construction of the new senior citizens center. Ms. Rackers stated that Destination 2040 identified several elements that must be present in order for a community to be a viable and desirable place to live. The programming that will be offered by the senior center provides most, if not all, of those elements, and so contributes to the vision of Destination 2040, and supports that Goals and Objectives of the Comprehensive Plan.

Ms. Rackers read further from the Comprehensive Plan:

"Community facilities improve Lexington by providing education, community meeting places, training, and recreation."

The staff believes that the senior center currently provides those types of facilities, and the new location will provide the opportunity for those services to be expanded.

Ms. Rackers stated that the staff finds the proposed senior citizens center to be in compliance with the Comprehensive Plan, subject to the recommendation as listed in the staff report and on the agenda.

Commission Questions: Mr. Penn asked if the proposed site is in a floodplain. Ms. Rackers answered that there is a large area of FEMA floodplain in the park, but the subject site is to be just outside of the floodplain.

Ms. Plumlee asked what the projected completion date for the new center would be. Ms. Rackers answered that it was projected to be completed by December of 2015.

Action: A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Owens absent) to approve PFR 2014-1, for the reason provided by staff, subject to the recommendation of staff.

B. INITIATE A TEXT AMENDMENT FOR HANDICAP RAMPS – The staff will request Commission initiation of a Zoning Ordinance text amendment to Article 15-5(a) to further the goals of the Americans with Disabilities Act.

Staff Comments: Ms. Wade stated that the staff had made a presentation at the recent Planning Commission work session, in order to request Commission initiation of a text amendment regarding handicap-accessible ramps. The amendment to Article 15-5(a) would be related to projections into required yards for covered porches, stairways, and terraces. The staff contacted the Mayor's Commission for Citizens with Disabilities, as well as the LFUCG ADA Coordinator and the Division of Building Inspection. Representatives of those entities suggested the addition of "for mobility purposes" to the first line of the text, and "to further the goals of the Americans with Disabilities Act" at the end. The staff wanted to clarify that the original language had referred to the ADA requirements, but those standards are optional, rather than required, for single-family residential construction.

Commission Question: Mr. Drake asked if the new language would prohibit the construction of a covered deck greater than 8' wide. Ms. Wade answered that such a deck could be constructed, as long as it was not at the front setback line for the property. If a covered porch was proposed that would encroach on the setback, a variance would need to be obtained from the Board of Adjustment.

Action: A motion was made by Ms. Blanton, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Owens absent) to initiate the proposed text amendment to Article 15-5 of the Zoning Ordinance.

C. CANCELLATION OF WORK SESSION – Mr. Sallee stated that the staff would recommend that the Commission to take action to formally amend the 2014 Meeting & Filing Schedule to cancel their previously scheduled work session on May 29, 2014.

Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Owens absent) to cancel the May 29, 2014, work session.

VII. STAFF ITEMS – No such items were presented.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. MEETING DATES FOR May, 2014

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	June 5, 2014
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	June 5, 2014
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	June 12, 2014

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Planning Commission Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	June 19, 2014
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	June 25, 2014
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	June 26, 2014

X. **ADJOURNMENT** – There being no further business, Mr. Cravens declared the meeting adjourned at 2:48 p.m.

TLW/TM/CT/BJR/BS/src

Mike Owens, Chair

Carla Blanton, Secretary

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